IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

OP.No. 3590 of 2003(B)

PETITIONER:

M.RAFEEQUE AHAMMED,
SUBAIDA TIMBERS, FEROKE, KOZHIKODE.

BY ADV. SRI.AVM.SALAHUDIN
SMT.G.VIDYA
SMT.SMITHA.V.

RESPONDENTS:
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1. WILDLIFE WARDEN,
OFFICE OF THE WILDLIFE WARDER (WL) DIVISION,
SULTHAN BATHERY, WAYANAD DISTRICT.

2. DISTRICT COLLECTOR, KOZHIKODE.

3. SPECIAL DEPUTY TAHSILDAR (ARREARS
COLLECTION), KOZHIKODE-4.

BY ADV.SMT.SMITHA, GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 05/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.No. 3590/2003

ORDER ON CMP 6290/2003 IN O.P.No. 3590/2003

DISMISSED.

05/03/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 COPY OF LETTER DATED 05/08/1998 SENT TO THE PETITIONER BY THE 1ST RESPONDENT.

EXT.P2 COPY OF THE DEMAND NOTICE DATED 10/12/2002 ISSUED UNDER SECTION 7 OF THE RR ACT.

EXT.P3 COPY OF THE DEMAND NOTICE DATED 10/12/2002 ISSUED UNDER SEC. 34 OF THE RR ACT.

EXT.P4 COPY OF THE OBJECTION DATED 04/01/2003 MADE BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 3590 of 2003

Dated, this the 5th day of March, 2007

J U D G M E N T

Petitioner is challenging proceedings for recovery of damages on account of non-payment of sale price for the goods purchased by the petitioner. Petitioner admittedly purchased Teak wood in auction conducted by Forest Department. However, payment was not made and consequently wood was put for re-auction at the risk and cost of the petitioner in accordance with tender conditions, under which differential cost is recoverable from the petitioner as damages. Even though, petitioner earlier contested the liability on the ground that there is delay in confirmation of sale, this Court vide judgment dated 16/07/1997 in OP 8067/1997 rejected the contentions. In view of the above judgment, there is no scope for entertaining challenge against demand of compensation on account of the alleged delay in confirmation of sale. Dispute against demand of compensation is also not maintainable because loss is worked out in terms of tender conditions accepted by the petitioner, which provides that damages is differential cost on resale. Therefore,

there is no scope for entertaining challenge against demand of compensation demanded in terms of tender conditions. In the circumstance, this writ petition fails and is dismissed.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg